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IRWIN UNION BANK AND TRUST COMPANY
11 and IRWIN HOME EQUITY CORPORATION

12
13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION**

15 IRWIN UNION BANK AND TRUST)
COMPANY AND IRWIN HOME EQUITY)
16 CORPORATION,)

17 Plaintiffs,)

18 v.)

19 FREEDOM MORTGAGE COMPANY,)

20 Defendants.)
21)
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CASE NO.: C08-00472-PJH

Action filed: January 22, 2008

**SUPPLEMENTAL REQUEST FOR
JUDICIAL NOTICE IN SUPPORT
OF PLAINTIFFS' RESPONSE RE:
DEFENDANT FREEDOM
MORTGAGE CORPORATIONS
MOTION TO DISMISS OR STAY
ACTION AND FOR AN ORDER
COMPELLING ARBITRATION**

Date: April 30, 2008

Time: 9:00 a.m.

Courtroom: 3

Hon. Phyllis J. Hamilton

1 Plaintiffs Irwin Union Bank and Trust Company ("Irwin Union") and Irwin Home Equity
 2 Corporation ("IHE") (collectively, "Plaintiffs"), hereby request that the Court take judicial notice
 3 of the following documents attached to the Supplemental Declaration of Jenny L. Dixon ("Supp.
 4 Dixon Decl."). These documents are submitted in further support of Plaintiffs' Response Re:
 5 Defendant's Motion to Dismiss or Stay Action and for an Order Compelling Arbitration.

6 **I. DELAWARE MOTION TO DISMISS, STAY OR TRANSFER TO NORTHERN**
 7 **DISTRICT OF CALIFORNIA**

8 Plaintiffs request that the Court take judicial notice of Defendants' Motion to Dismiss,
 9 Stay or Transfer to the Northern District of California ("Motion to Dismiss"), filed in the matter
 10 captioned *Freedom Mortgage Corporation v. Irwin Financial Corporation and Irwin Mortgage*
 11 *Company*, Case No. 08-CV-00146-GMS (D. Del.). The document is attached as Exhibit 4 to the
 12 Supp. Dixon Decl.

13 The Court may take judicial notice of matters of public record and court records,
 14 including pleadings or documents filed in state or federal court. *See Smith v. Duncan*, 297 F.3d
 15 809, 815 (9th Cir. 2002); *Mullis v. United States Bank Ct.*, 828 F.2d 1385, 1388 n. 9 (9th Cir.
 16 1987). Here, the Motion to Dismiss was filed in the United States District Court for the District
 17 of Delaware. The Court may therefore take judicial notice of it as a public record.

18 **II. NOTIFICATION OF STAY BY NATIONAL ARBITRATION FORUM**

19 Plaintiffs request that the Court take judicial notice of a letter sent by the Case
 20 Coordinator of the National Arbitration Forum notifying the parties that the arbitration captioned
 21 *Freedom Mortgage Corporation v. Irwin Home Equity Corporation and Irwin Union Bank and*
 22 *Trust Company*, File Number MX080300205823, has been stayed. The document is attached as
 23 Exhibit 3 to the Supp. Dixon Decl.

24 Numerous courts have taken judicial notice of arbitration records under Fed. R. Evid.
 25 201, which permits judicial notice of related proceedings. *See Rowland v. Prudential Financial,*
 26 *Inc.*, No. CV04-2287PHX-EHC, 2007 WL 1893630, at *1 n. 1 (D. Ariz. July 2, 2007) (citing
 27 *Stacks v. Southwestern Bell Yellow Pages, Inc.*, 27 F.3d 1316, 1326 n.3 (8th Cir. 1994));
 28 *Yerkovich v. MCA Inc.*, 11 F. Supp. 2d 1167 n. 2 (C. D. Cal. 1997)). As the arbitration involves
 the same claims at issue in this case, it is a related proceeding and thus documents in that case

1 are properly the subject of judicial notice by this Court. Therefore, the Court may properly take
2 judicial notice of the National Arbitration Forum's letter.

3 In addition, the National Arbitration Forum's letter is relevant and necessary to this
4 Court's resolution of Freedom's Motion to Dismiss or Stay Action and for an Order Compelling
5 Arbitration. Per Freedom's request, the National Arbitration Forum has stayed the arbitration
6 that Freedom seeks to compel.

7
8 Dated: April 24, 2008

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18 Trust Company and Irwin Home Equity
19 Corporation
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